



## CITY OF LODI COUNCIL COMMUNICATION

**AGENDA TITLE:** Adopt Resolution Authorizing the City Manager to Execute an Agreement with the Boosters of Boys/Girls Sports Organization (BOBS) for Concession Operations for the Term of July 1, 2010 to June 30, 2013

**MEETING DATE:** July 7, 2010

**PREPARED BY:** Interim Parks and Recreation Director

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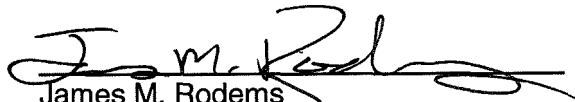
**RECOMMENDED ACTION:** Adopt resolution authorizing the City Manager to execute an agreement with the Boosters of Boys/Girls Sports organization (BOBS) for concession operations for the term of July 1, 2010 to June 30, 2013.

**BACKGROUND INFORMATION:** The BOBS organization is committed to providing low-cost youth sports programs in Lodi. To meet this goal, the organization operates concession stands at various youth sports facilities. These facilities include Kofu Park, Salas Park, Zupo Field, Softball Complex, Chapman Field and other facilities on a per event basis. In addition to raising funds for program costs, the BOBS dedicate funds toward capital improvements at these sites. In light of the capital improvements provided by the BOBS, the term of the proposed agreement is three years.

The concession outlets are staffed by BOBS employees. Both the expiring and new agreements provide that the BOBS will submit a monthly concession report to the Parks and Recreation Director. The Softball Complex and Chapman Field are additional locations that were not in the previous contract. The special events at which concessions will be provided will be determined by mutual agreement between the BOBS and the Parks and Recreation Director.

**FISCAL IMPACT:** The BOBS contribute an average of \$25,000 per year toward park improvements, reducing the financial strain on the General Fund and Parks and Recreation budgets. This agreement is expected to generate an equal amount for facility improvements in the three-year period.

**FUNDING AVAILABLE:** N/A

  
James M. Rodems  
Interim Parks and Recreation Director

cc: City Attorney

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APPROVED: \_\_\_\_\_

  
Konrad Bartlam, Interim City Manager

## **AGREEMENT**

### **CITY OF LODI AND BOOSTERS OF BOYS AND GIRLS**

#### **SPORTS FOR CONCESSION OPERATIONS AT**

**KOFU, SALAS, ZUPO, SOFTBALL COMPLEX, CHAPMAN FIELD AND OTHER LOCATIONS  
FOR BOBS SPONSORED EVENTS AND OTHER EVENTS AS DETERMINED BY MUTUAL  
AGREEMENT WITH THE BOBS AND THE DIRECTOR OF PARKS AND RECREATION**

#### **PARTIES:**

This agreement is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2010 by and between the City of Lodi, a municipal corporation ("City") and the Boosters of Boys and Girls Sports ("BOBS"). The term of this agreement shall be from July 1, 2010 to June 30, 2013.

#### **RECITALS:**

BOBS agrees to operate concession stands at the below described parks under the terms and conditions set forth herein:

- Kofu Park, 1145 S. Ham Lane, Lodi, California
- Salas Park, 2001 S. Stockton Street, Lodi, California
- Zupo Park, 350 N. Washington Street, Lodi, California
- Softball Complex, 401 N. Stockton Street, Lodi, California
- Chapman Field, 333 N. Washington Street, Lodi, California

#### **TERMS AND CONDITIONS:**

1. Definitions:

A. Special Events: As used in this Agreement "Special Events" shall mean events other than normal Parks and Recreation activities including but not limited to concerts and professional sporting events.

2. Premises: City does hereby grant to BOBS the sole and exclusive right\license to vend food and drinks, etc. at the concession stands at the Kofu, Salas, and Zupo parks and other locations for BOBS and/or City sponsored programs and events (determined by mutual agreement with BOBS and the Director of Parks and Recreation for the term of this

agreement.) The Director of Parks and Recreation may allow other concessionaires at special events.

3. Consideration: In consideration for the granting of this right\license the parties shall do the following:

A. City shall provide:

1. Enclosed concession stands at the Kofu, Salas, Zupo, Softball Complex and Chapman Field parks with some limited City-owned equipment listed in Exhibit A which BOBS will be expected to service and maintain at BOBS sole cost and expense;
2. Water, sanitary sewer, gas, electricity, and garbage receptacles outside of the concession buildings;
3. Maintenance of the general property of the concession buildings, unless abuse and lack of general care is apparent, at which time the cost and expenditures shall be that of the BOBS.

B. Concession operation conditions:

1. The City Manager is granted the right to immediately terminate this agreement upon failure on the part of the BOBS to keep in full force and effect during the entire term of this agreement, the insurance required herein;
2. BOBS shall, prior to opening for business, furnish a products and price schedule and shall follow the products and price schedule as mutually agreed to between BOBS and City;
3. BOBS shall provide all equipment and merchandise necessary to operate said concessions except the equipment listed in Exhibit A;
4. BOBS shall keep accurate records and books of accounts of all purchases and sales and does hereby give to the City or its authorized agents, the right to examine and audit said books at any reasonable time. The BOBS will complete monthly reports, and these reports shall be filed with the City by the tenth day of every month while said concession is in operation;

5. BOBS shall operate said concessions on program game dates at times commencing 15 minutes before first scheduled game or event time and closing no earlier than the conclusion of the last scheduled game and/or 9:30 p.m.;
6. BOBS agrees to obtain at its own expense, any and all permits and licenses which may be required by law or ordinance in conducting the concessions, and to pay any and all taxes which may be assessed against it for whatever purposes in the operation of said concessions;
7. BOBS shall keep the concession stands and the immediate surrounding area in a clean and presentable condition at all times and follow the strictest of sanitary conditions, and any State and local ordinances applicable to the business conducted. BOBS shall give the City written notice of any maintenance problems;
8. The rights granted hereunder for concession sales at the identified parks, shall be exclusive to BOBS for BOBS excepting special events and football games sponsored by the Lodi Unified School District at the Grape Bowl Stadium. Subleasing by BOBS is hereby prohibited;
9. BOBS is aware that a Possessory Interest Tax is or may be charged each year by the County Assessor for the use of the facilities and that payment of this tax is the responsibility of BOBS;
10. The Parks and Recreation Director shall consult with the BOBS and the Concession Manager to approve or disapprove any employee or operator of said concession stands on the basis of such considerations as dress, general cleanliness, working relationship with the public, and staff needed to successfully vend food for day to day operations, tournaments or special events/activities. (City will coordinate this action with Concessionaire manager);
11. City reserves the right to enter upon the premises at any reasonable time, to inspect the operation and equipment thereon, or for any other purpose;

12. BOBS shall not have the right to sell, mortgage, assign or sublet this agreement or any part thereof without the prior written consent of City and any attempt to do so shall automatically terminate this agreement;

13. BOBS shall be responsible for the security of the concession stand and any storage buildings assigned to its exclusive use as far as locks on doors and windows or installation of an alarm system if it is deemed necessary by mutual agreement of the parties. BOBS shall be responsible for any acts of vandalism to BOBS' equipment or inventory;

14. At the conclusion of or termination of this agreement BOBS shall surrender said concession premises in as good an order and condition as that in which BOBS received same, excepting ordinary wear and tear. Damage to or mistreatment of the buildings or City equipment will be the responsibility of BOBS to repair, replace, or reimburse for repair and replacement.

4. Insurance\Hold Harmless: City shall, as owner of the property, be responsible to the extent provided by law for any damages arising from the condition of the property itself, or from the direct and active negligence of City's employees and officers. BOBS shall save, defend, indemnify and hold harmless City, its officers, agents or employees from all damages, costs or expenses which may arise because of damages or injury caused by BOBS, its officers, agents, members or employees during the course of its activities on said premises. Such indemnity shall include attorney's fees. BOBS is required to carry a policy of comprehensive general liability insurance in compliance with all provisions of the "Risk Transfer Requirements for Lease or Use of City of Lodi Facilities", attached hereto as Exhibit B and incorporated herein by reference.

5. Termination of Agreement: This agreement may be terminated at any time with or without cause by either party upon thirty days written notice. Upon termination of this agreement BOBS agrees to quit and surrender the premises in a peaceable manner and City shall have the right to remove BOBS and all others occupying through or under this agreement.

6. Holding Over: Any holding over after the expiration of this contract, with the consent of the Director of Parks and Recreation, shall be construed as a year-to-year tenancy, otherwise in accordance with the terms hereof, as applicable.

7. Entire Agreement: This document contains the entire agreement between the parties. Any inconsistent prior or contemporaneous oral terms are void and shall not be used to modify or supplement this written agreement.

8. Attorney's Fee and Costs: In the event either party brings an action under this agreement at Law or in Equity, for the breach or enforcement thereof, the prevailing party in such action shall be entitled to its reasonable attorney's fees and costs whether or not such action is prosecuted to judgment.

IN WITNESS WHEREOF, the parties hereto, being in agreement with the terms of this writing, have set their hands as follows:

CITY OF LODI, a municipal corporation

BOOSTERS OF BOYS AND GIRLS  
SPORTS (BOBS):

\_\_\_\_\_  
KONRADT BARTLAM  
Interim City Manager

\_\_\_\_\_  
RICK ENGELHARDT  
President

ATTEST:

\_\_\_\_\_  
RANDI JOHL  
City Clerk

APPROVE AS TO FORM:

\_\_\_\_\_  
D. STEPHEN SCHWABAUER  
City Attorney

\_\_\_\_\_  
Date

RESOLUTION NO. 2010-107

A RESOLUTION OF THE LODI CITY COUNCIL APPROVING THE  
AGREEMENT BETWEEN THE CITY OF LODI AND BOOSTERS OF  
BOYS AND GIRLS SPORTS (BOBS) ORGANIZATION FOR  
CONCESSION OPERATIONS AT KOFU, SALAS, AND ZUPO PARKS  
AS WELL AS THE SOFTBALL COMPLEX, CHAPMAN FIELD, AND  
OTHER LOCATIONS FOR BOBS-SPONSORED EVENTS

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NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby approve the agreement between the City of Lodi and Boosters of Boys and Girls Sports (BOBS) Organization for concession operations at the Kofu, Salas, and Zupo Parks, as well as the Softball Complex, Chapman Field, and other locations for BOBS-sponsored events; and

BE IT FURTHER RESOLVED that the term of this agreement will cover the period of July 1, 2010 through June 30, 2013; and

BE IT FURTHER RESOLVED that the City Manager is hereby authorized to execute the agreement on behalf of the City of Lodi.

Dated: July 7, 2010

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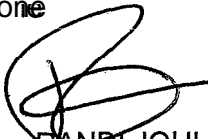
I hereby certify that Resolution No. 2010-107 was passed and adopted by the City Council of the City of Lodi in a regular meeting held July 7, 2010, by the following vote:

AYES: COUNCIL MEMBERS – Hansen, Johnson, Mounce, and  
Mayor Katzakian

NOES: COUNCIL MEMBERS – None

ABSENT: COUNCIL MEMBERS – Hitchcock

ABSTAIN: COUNCIL MEMBERS – None

  
RANDI JOHL  
City Clerk